



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/09331/2017

THE IMMIGRATION ACTS

**Heard at Royal Courts of Justice
On 29 January 2018**

**Decision & Reasons
Promulgated
On 6 February 2018**

Before

UPPER TRIBUNAL JUDGE KEKIĆ

Between

**LIBAN KHADER YOUSEF
(ANONYMITY ORDER NOT MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Bahja, Counsel instructed by Duncan Lewis Solicitors

For the Respondent: Mr S Kotas, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

- 1.** The appellant challenges the determination of First-tier Tribunal Judge M J Gillespie promulgated on 3 November 2017 dismissing his deportation appeal on human rights grounds.
- 2.** The appellant is a Somali national born on 2 June 1991. He entered the UK as a child with his maternal aunt (described as his adoptive

mother) who had entry clearance to join her Somali husband. The marriage failed but she and the appellant were granted discretionary leave and in 2001 obtained indefinite leave to remain.

3. The appellant has a history of criminal convictions. In November 2011 the respondent considered deportation and served the appellant with notice of liability to deportation. He responded with submissions and the respondent chose not to pursue deportation at that stage. Regrettably that did not deter the appellant from his criminality and on 3 February 2017, after further convictions, the respondent made a deportation order. The applicant then claimed asylum and a section 72 certificate was subsequently issued. On 25 September 2017 the respondent rejected further representations made on behalf of the appellant.
4. The appeal came before judge Gillespie at Hatton Cross on 25 October 2017. The appellant was represented then as he is now by Mr Bahja.
5. First-tier Tribunal Judge Keane granted permission to appeal on 29 November 2017. The matter then came before me.
6. **The Hearing**
7. The appellant was not present at the hearing. I heard submissions from the parties.
8. Mr Bahja clarified that no issue was taken over the section 72 certificate and that the sole issue was whether the decision breached the appellant's human rights. He relied on his skeleton argument and argued that the appellant had been in the UK for 25 years, that he had been a child when he left Somalia and that although the history of his convictions was not disputed, they had mostly been committed whilst he was a young man and had been dealt with by the youth courts. He argued that the judge had not considered this fact.
9. Reliance was also placed upon country guidance. It was submitted that the appellant had no family connections in Mogadishu. There was no serious discrepancy in the conflicting evidence over whether his father was dead or probably dead as this evidence pointed in the same direction. Were the appellant to be deported, he would end up in a camp for displaced persons; conditions therein would breach article 3. That factor when combined with the lack of family ties and his lengthy residence in the UK should have led the judge to a different decision. the judge had failed to deal with the appeal in a manner which reflected the evidence.
10. Mr Bahja submitted that there had to be a broad assessment of whether there would be insurmountable obstacles to reintegration. He

submitted that the appellant had been here a long time and spoke English and there would be significant obstacles to his reintegration. Removal would also breach article 8.

- 11.** In response, Mr Kotas submitted that the judge had indeed had regard to the appellant's youth as he had referred to it several times. He was also plainly aware of his lengthy residence. There was no merit therefore to the complaint that these matters were overlooked. Mr Kotas submitted that in addition to showing insurmountable obstacles to re-integration, the appellant also had to show that he was socially and culturally integrated into British society and the only evidence of his activities here was his criminality. He had no home, no employment and there was no evidence of any qualifications obtained. The submissions on mitigating factors were undermined by the appellant's continued criminal behaviour until his most recent incarceration. Moreover, despite his claimed contrition, he had continued to behave badly in detention and received numerous adjudications.
- 12.** The judge had carefully considered the country conditions and noted that there was no longer any inter-clan violence. Country guidance had been considered. It was not accepted that he spoke no Somali. The judge had considered all the factors identified in country guidance and was entitled to conclude that article 3 would not be breached and that public interest factors outweighed the appellant's article 8 claim.
- 13.** Mr Bahja accepted that the judge had considered the length of the appellant's residence but had failed to give it due weight. He had also failed to consider reasons why the appellant may not have had employment and he failed to have regard to the fact that the appellant's knowledge of English demonstrated integration.
- 14.** At the conclusion of the hearing I reserved my determination which I now give with reasons.
- 15. Conclusions**
- 16.** I have carefully considered the evidence including the submissions that have been made and have had regard to the case law to which I was referred.
- 17.** Essentially the appellant's case is that he should not be deported because of his long residence and youth. It is certainly true that there are no other positive features to the case.
- 18.** The appellant has a sorry history of criminal behaviour which is summarized by the judge in his determination and demonstrates an escalation of the seriousness of his offending. Contrary to what was argued by Mr Bahja, the judge was well aware of the appellant's

youth on arrival, his age when he carried out his offending behaviour and his length of residence. These matters are set out at paragraphs 1, 2, 14, 23 and 44. Also contrary to what was argued, the judge did indeed note that his residency since infancy was a highly significant factor (at 23).

- 19.** The determination is a careful, thorough and orderly examination of the case. The judge has correctly applied the law and assessed the facts. He found that the appellant had committed very serious crimes by dealing and supplying Class A drugs and that he continued to be a danger to the public. No challenge has been made to those findings and Mr Bahja confirmed there was no issue taken with the judge's conclusion that the certificate had not been rebutted.
- 20.** Much emphasis was placed by Mr Bahja on the appellant's youth when he committed most of his offences. I fail to see how that advances his claim since it was his most recent foray into Class A drugs when he was in his mid-twenties and the two years in prison he received which led to the deportation order. The judge noted that a previous threat of deportation in 2011 plainly had no positive effect on him and that his submission that he had reformed was without substance because his offending persisted and escalated thereafter. The judge noted that even whilst in prison for his last offences, he continued to receive adjudications for offences including violence, threatening behaviour, the possession of dangerous weapons and trafficking in drugs. All attempts at rehabilitation have failed and the appellant's adoptive mother has conceded that she has no influence over him and has no idea of his circumstances because he does not live with her.
- 21.** The judge took careful note of the submissions on integration both in the UK and on return. He acknowledged that the appellant's long residence was a significant factor. He was, however, entitled to find that the appellant had failed to prove social and cultural integration into life in the UK. He found that his only witness had no information about his circumstances, that there was no evidence as to his activities in this country other than his criminal offending, no evidence of a home or employment and no information or evidence as to his life here. The judge was entitled to find that it had not been shown that the appellant could not speak Somali. Plainly his adoptive mother does and they communicate and the appellant's own representations refer to English as his first but not his only language. The judge was also entitled to note the contradictory evidence about the appellant's father. His findings on the appellant's claim of homosexuality are unchallenged as are the findings on the appellant's tattoo and his claimed clan membership.
- 22.** Mr Bahja also argued that the judge had failed to consider the deteriorating conditions in Mogadishu since the promulgation of MOJ (Return to Mogadishu) CG [2014] UKUT 442 and indeed permission

was granted on that basis. That is, however, misrepresentative of the determination as at paragraph 39 the judge specifically addressed the deteriorating conditions.

- 23.** It is argued that if returned, the appellant would end up in a camp for displaced persons but it would appear that no such argument was made before the judge at the hearing. It is, in any event, speculative as the appellant has been unable to establish with any reliability the circumstances he would be likely to face on return. The judge did not accept that he had shown he would have no family.
- 24.** I find in conclusion that the judge properly considered all the relevant factors, undertook a thorough assessment and meticulously applied the law. Whilst the appellant may disagree with the result and whilst another judge may have reached a different outcome, it cannot be said that this judge's determination discloses any errors of law which render it unsustainable.

25. Decision

- 26.** The First-tier Tribunal Judge did not make any errors of law and his decision to dismiss the appeal stands.

27. Anonymity

- 28.** The First-tier Tribunal did not make an anonymity order and I see no reason to make one.

Signed



Upper Tribunal Judge

Date: 2 February 2018